

REMARKS

Regarding claims 1-2

The examiner rejected claims 1-2 on the ground of statutory double patenting contending that the claims are equivalent in scope to claims 1-2 of US Patent No. 6,639,190. It is respectfully submitted that the claims are not equivalent in scope.

There are two differences in scope between the exiting claim language and the claim language of prior U.S. Patent No. 6,639,190. The first difference is a difference in scope between "the liquid crystal composition shaped to convey an outline of the letters "HOT"" of claims 1-2 and the language of the '190 patent "the color change revealing an outline of the letters "HOT"". In the first case (the '190 patent) the liquid crystal composition has to be shaped to convey "HOT" or its outline. In the second case (the claims at issue herein), the liquid crystal composition can be a solid block and it can cover an outline of the letters "HOT" and then the composition disappears to reveal the letters underneath it.

That first difference is spelled out explicitly at page 15, 1st paragraph of the specification. This paragraph is reprinted here for convenience:

In the case where the thermochromic composition covers a previously written or formed heat warning symbol, preferably, the heat warning symbol was formed or written underneath the thermochromic composition by whatever well known processes employ the least expensive means, such as printing, writing, stamping, scratching, etc. Accordingly, although the drawing figures of the present invention may seem to be directed to the case in which the thermochromic composition is itself in the shape of the letters "H,O,T" or other heat warning symbol, it should be understood that the drawings could just as well be depicting the case in which the thermochromic composition has turned invisible (since the temperature has exceeded the predetermined temperature) and has revealed beneath said composition the heat warning symbol such as the letters "HOT" printed or otherwise fixed onto some tangible medium of expression such as paper or any other object.

Thus the claims 1-2 broaden the scope of the invention by including other ways in which the liquid crystal composition can effectuate its task.

The second difference is that the claims cover any color whereas the '190 covers the color red, which is defined in the patent to include all shades of red and orange – and this does not include other colors.

The examiner also rejected claims 3-6 on the ground of statutory double patenting contending that the claims are equivalent in scope to claims 1 and 4 of prior U.S. Patent No. 6,104,007. It is respectfully submitted that the claims are not equivalent in scope for the identical reasons stated above with respect to proposed claims 1-2 of the instant application.

Although Applicant contends that claims 1 through 6 are broader in scope than the corresponding claims of the '190 and '007 patents, Applicant does not contend that said claims 1-6 herein are necessarily patentably distinct over said corresponding claims of the '190 patent and the '007. Consequently, Applicant submits a terminal disclaimer herewith that applies also to claims 1-6 herein.

Regarding claims 7-18

The examiner rejected these claims based on the judicially created doctrine of obviousness-type double patenting, a rejection that can be overcome with the filing of a terminal disclaimer. Applicant furnishes herein such a terminal disclaimer. The \$55 fee for a small entity accompanies this Response.

It is noted that Applicant has to vary the Patent Office form for Terminal Disclaimers somewhat because Applicant is disclaiming the terminal portion of the instant patent because of two different prior patents. Claims 1,2,7,8,9,10,11,16,17, and

18 of the instant patent are being disclaimed terminally due to the '190 patent whereas claims 3-6 and 12-15 of the instant patent are being terminally disclaimed due to the '007 patent. Applicant has added language to said effect in the body of the PTO Form SB/26 for terminal disclaimers enclosed herein since the instant situation differs somewhat from the usual case covered in said form.

It is noted that claim 14 is also amended to remove the word "(predetermined?)" that was inserted accidentally in the claim, as evidenced by the parentheses and question mark.

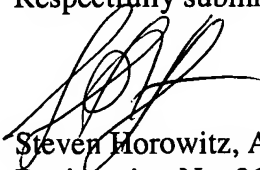
For each of the above reasons Applicant respectfully submits that claims 1-18 are now in condition for allowance and are novel and nonobvious in relation to the prior art.

It is respectfully requested that the amendment to claim 14 be entered.

Since the foregoing arguments and the enclosed terminal disclaimer are understood to place the application in condition for allowance, acceptance of the terminal disclaimer and allowance of claims 1-18 is respectfully requested.

Dated: November 24, 2004

Respectfully submitted,



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